REMARKS

Status

Upon entry of the proposed amendments, claims 6-7, 26, 28-29, 32-34, and 39 40 will be pending and claims 1-5, 8-25, 30-31, and 35-38 will have been canceled without prejudice to the subject matter covered by those claims. Each of the pending claims stand rejected as either allegedly anticipated or obvious in light of the references cited by the Office action. Claims 6-7 and 39-40 have been rewritten in independent form to simplify matters for appeal. Claim 28 has been amended to correct an error.

Each of the pending claims are patentable over the cited references for at least the following reasons.

35 USC 102 and/or 103

Claim 6, which has been rewritten into independent form, stands rejected as being allegedly anticipated by Alkan et al. (U.S. Patent 4,919,973). Claim 6 is patentable over the '973 patent at least because the '973 patent fails to disclose or suggest "a vibration source ... capable of generating pressure waves of compressible fluid containing enough energy to lift a medical device located on the screen away from the screen." The '973 patent is entitled Coating Apparatus for Small-Scale Processing, and regards an apparatus that "effectively fluidizes the particles to be coated by controlled vibration of a perforated platform through which drying air is passed." See '973 patent Abstract; see also id. at col. 1, lns. 10-15; col. 3. lns. 61-65. This vibratory energy is created by a vibratory means that is mechanically linked to the perforated platform. See '973 patent figure 1. As the vibratory means vibrates, it imparts a vibration on the screen 3, which in turn causes the "particles ... disposed on the support ... to vibrate and become fluidized during application of the coating material and application of a drying gas flow to the

particles." '973 patent at col. 1 ln. 66-col. 2 ln. 1. Thus, in the '973 patent, the particles to be coated are fluidized via physical contact with the sieve 3. There is no discussion or suggestion that pressure waves of compressible fluid are used to lift the particles being coated. Indeed, the physical design illustrated in figure 1 of the '973 patent confirms this because the vibration source is covered with a metal lid, a lid that has the effect of retarding and/or stopping any pressure waves that may originate at the vibration source. Moreover, the drying air flowing from the Drierite tube 6 through the tube 4 is further evidence that waves of compressible fluid are not used to lift the particles away from the screen 3 because this drying air would disrupt any pressure waves from the vibrating source flowing to the sieve 3. The direct disclosure of the sieve 3 acting on the particles combined with the physical design of the device in the '973 patent make it clear that the '973 patent does not disclose or suggest the recited language and that claim 6 is patentable over the '973 patent. There are other things that distinguish claim 6 over the '973 patent as well.

Claim 7, which has also been rewritten in independent form, stands rejected as being allegedly obvious under the combination of Alkan and Wurster (U.S. Patent 3,253,944). The undersigned submits that neither reference shows a nozzle beneath a vibration source as recited therein and, because of this, the impropriety of using or combining the references does not need to be discussed. In the '944 patent there is no vibration source shown in figure 1. What is shown is a tower 10 coupled to essentially, what are air flow tubes 14, 16, and 26. These tubes are in-turn, in fluid communication with a gas source (which is not shown). Any vibration that is ancillary to the flow of gas through the tubes 14, 16, and 26 would originate below or downstream of the coating inlet connection 28. Thus, there is no nozzle positioned beneath the vibration source as recited in the claim. Moreover, even if there were, such a disclosure would

not provide any motivation to modify the device of figure 1 of the '973 patent and place the nozzle 13 below the loudspeaker amplifier 8 shown therein. As show in figure 1, if the nozzle 13 were placed below the amplifier 8, effluent from the nozzle would not reach the particles positioned above the sieve 3 as the device above the amplifier 8 is completely enclosed by the tube 4. Indeed, a nozzle positioned below the vibratory source 8 of Alkan would be duplicative, contributing nothing to the design. Therefore, for at least these reasons, the recited claim language is not shown or taught by either reference or their errant combination.

Claim 26 stands rejected as being allegedly obvious over various combinations of several U.S. patents. The first is Wurster in combination with Zingerman (U.S. Patent 3,431,138). The undersigned submits that neither of these references regard an apparatus for coating a medical implant, and that each at least fail to disclose or suggest a means for forcing a medical implant to move above a screen as recited in the claim. There are numerous devices that fall within the definition of medical implant provided in the specification. These include stents, catheters, needle injection catheters, blood clot filters, vascular grafts, stent grafts, biliary stents, colonic stents, TMR devices, and PMR devices. See Specification at ¶ 23. Each of these devices comprise some sort of structure that has its own purpose in the body - to support a vessel as with stents or to retard the movement of blood clots as with filters. However, no such device is shown in the '944 patent or the '138 patent. Rather, in each of these patents particles or tablets, not implants, are being acted upon. Furthermore, it would not be obvious to substitute a medical implant for a tablet, pellet, or pill. Pellets, tablets, and pills are solid and rugged masses while medical implants, by comparison, are delicate structures that may be easily deformed and rendered unusable. These differences teach away from replacing the tablets and such in the '944 patent with medical implants as suggested by the Office action. Consequently, because neither

discloses or suggests coating a medical implant with a therapeutic, claim 26, which is directed to such an apparatus, is patentable over them. Moreover, neither reference includes a means for forcing medical implants to move above a screen, as in the claim. In order to disclose this feature, the references must disclose a device with the identical function, to force a medical device above a screen, however, neither of these references recite such a function as neither reference addresses medical implants. Thus, based at least on the above, claim 26 is patentable over the '138 patent and the '944 patent.

Claim 26 also stands rejected as being allegedly obvious over the combination of Alkan, Zingerman, and Opalski (U.S. Patent 5,272,012). Following from the above discussion, there is no evidence that either Zingerman or Opalski discloses or suggests coating a medical implant. As to Alkan, it too is directed to coating "tablets, pellets or granules." See '973 Patent Abstract. Thus, it can not and does not disclose or suggest an apparatus for coating a medical implant and a means for forcing the medical implants to move above a screen during the coating process. Tablets, pellets and granules are different than medical implants and there is no evidence that they may be readily interchanged, indeed the fragileness of medical implants, such as stents, when compared to the ruggedness of the tablets and pellets, teach away from the use of the Alkan coating device to coat them.

Claim 26 also stands rejected as being allegedly obvious over the combination of Carter (U.S. patent 5,686,045) and Leidner (U.S. patent 6,056,993). Neither of these references regard coating a medical implant, let alone disclose or suggest a means for forcing a medical implant above a screen during a coating process as recited in the claim. The '045 patent regards a method and apparatus for sterilizing a medical device. The vibration in this apparatus is provided to remove all the microbes and biological material from the device, see '045 patent at

col. 1 lns. 10-23, this is the exact opposite of placing something on it - coating it. Indeed, the bath of liquid that the device sits in is specifically for sterilizing the device, not coating it. The '993 patent is even further removed as it regards a porous prosthesis and a method of making it. Thus, as neither reference regards coating a medical implant, claim 26 is patentable over them.

Claim 29 stands rejected over Blomstrom (U.S. patent 3,846,566) in view of Leidner and Tso (U.S. patent 5,527,533). The '566 patent regards treating shrimp and other crustaceans. It doesn't regard coating anything, let alone coating medical implants or coating medical implants with a therapeutic. The '566 patent is, therefore, not prior art. Moreover, even it were, there is no motivation provided by either the '993 patent (which regards manufacturing a prosthesis) or the '533 patent (which regards retarding and ameliorating central nervous system damage) to replace the shrimp in the '566 patent with medical implants, which are more fragile than shrimp and which require far greater sanitary conditions than do shrimp. At least because of this, claim 29 and claim 28, which depends from it, are patentable over the cited references.

Claims 32-34 stand rejected as well. Based on their dependency from claim 26, the undersigned submits that each of them are in condition for allowance. There are other reasons as well. For example, none of the references cited against claim 33 disclose or suggest a means for forcing the medical implants above the screen when the means comprises a nozzle. In the '944 patent, which is apparently cited as allegedly disclosing this feature, the nozzle 30 does not force the particles in the tube 10 away from the screen. Thus, as figure 1 of the '944 patent has no other nozzle, it does not disclose or suggest the recited language. Claim 34, which also recites such a nozzle, is patentable for at least this same reason.

Claims 39 and 40 have been rewritten in independent form. They stand rejected as being allegedly anticipated by Alkan. Each of these claims is patentable over the '973 patent at least

because the '973 patent does not have a means for suspending medical implants that comprises a nozzle or a nozzle and a vibrating structure. As can be seen in figure 1 of Alkan the only nozzle shown is above the tablets and is spraying a coating. The air flow below the sieve 3 emanates from a tube without a nozzle. At least based on this distinction, the claims are patentable over the '973 patent.

35 U.S.C. 112

Claim 28 stands objected to as being allegedly indefinite because it recited a "medical device." Claim 28 now recites a medical implant, which is more consistent with claim 29, the claim from which it depends, so the objection is moot.

Conclusion

On the basis of the foregoing, the Applicants respectfully request that the Examiner give due consideration to the claims as amended above and the accompanying remarks. As discussed above, the Applicants submit that all claims are in condition for allowance. Should any questions arise, the Examiner is invited to contact the undersigned at (202) 220-4311.

The Commissioner is hereby authorized to charge any fees and credit any overpayments associated with this filing to Kenyon & Kenyon, Deposit Account No. 11-0600.

Respectfully submitted,

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